

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of SAN DIEGO GAS & ELECTRIC COMPANY for Authority Pursuant to Public Utilities Code Section 851 to Sell Certain Property in Its Transmission Corridor in the City of San Juan Capistrano in the County of Orange to Whispering Hills, LLC, to Realign Transmission and Distribution Lines Overhead on a Temporary Basis and Underground on a Permanent Basis and to Enter into Easements with Whispering Hills, LLC. (U 902-E)

Application 04-07-049  
(Filed July 30, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REQUESTING COMMENTS**

In response to the prior Administrative Law Judge's Ruling that directed San Diego Gas & Electric Company (SDG&E) to supplement its application and to more broadly serve the application, an associated motion, and a copy of the ruling, the Commission has received four letters. Three of the letters (from individuals living in the area of the property SDG&E proposes to sell) do not constitute formal protests to the application, but they do raise issues regarding the value of the property that SDG&E proposes to sell.<sup>1</sup> The Commission must

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<sup>1</sup> Because it is not clear that the letters from the local residents were served on the applicant or other interested parties, these three letters are attached to this ruling as Appendix A for reference.

address and resolve those issues in order to meet its statutory duty under Pub. Util. Code § 851. The fourth letter is from the Capistrano Unified School District, and expresses its general support for SDG&E's application.

The three letters from residents argue that the proposed sale price for the property is significantly too low. According to the letters, this low price is based primarily on two flaws in the appraisal of the property. First, the appraisal used to set the price assumed that the land was zoned "Growth Management," rather than its actual current zoning of "Planned Community." Planned Community is a significantly less restrictive zoning than Growth Management, and allows for much greater development density. Second, the appraisal did not consider the most recent comparable land sale in the area, which is the sale of land to the local high school (discussed in the application). According to the letters, the value of land reflected by that sale is approximately \$1 million per acre, implying that the property SDG&E proposes to sell could be worth approximately \$14 million, rather than the \$100,000 that SDG&E asserts is the fair market value of the property.

The Commission needs to address and resolve this rather large discrepancy in the land values claimed by SDG&E and in the letters from the local residents. Accordingly, we will provide SDG&E and other parties an opportunity to respond to the allegations raised in the letters. SDG&E should provide any and all information and analysis it has that supports the sale price for the property, in addition to the appraisal, which is already in the record. SDG&E and other parties should also address the probative value of the appraisal, given that the appraisal was prepared for the developer in 2001.

Anyone who wishes to become a party to this proceeding should send a request by e-mail to ALJ Peter V. Allen at [pva@cpuc.ca.gov](mailto:pva@cpuc.ca.gov) no later than December 6, 2004. A service list will be created from those requests. (SDG&E is already a party, and need not submit a request.) Please note that becoming a party requires full compliance with the Commission's Rules of Practice and Procedure (available on the Commission's website at: [http://www.cpsc.ca.gov/PUBLISHED/RULES\\_PRAC\\_PROC/26592.htm](http://www.cpsc.ca.gov/PUBLISHED/RULES_PRAC_PROC/26592.htm)). Anyone requiring assistance in participating in this proceeding should contact the Commission's Public Advisor. Information on how to contact the Public Advisor is available on the Commission's website at: <http://www.cpsc.ca.gov/static/aboutcpuc/divisions/csid/public+advisor/index.htm>, or by calling 1-866-849-8390 or 1-415-703-2074.

Comments on the sale price of the property and the appraisal should be filed at the Commission, and an electronic version sent by e-mail to the service list (and ALJ Peter V. Allen at [pva@cpuc.ca.gov](mailto:pva@cpuc.ca.gov)) no later than December 10, 2004.

Once the service list is created, service in this proceeding is electronic only unless specifically ordered otherwise. The protocols for electronic service to be used in this proceeding are attached to this ruling as Appendix B. SDG&E shall serve this ruling on the same parties upon which it was directed to serve its application, motion, and the prior ruling.

**IT IS RULED** that:

1. Anyone who wishes to become a party to this proceeding must send a request by e-mail to ALJ Peter V. Allen at pva@cpuc.ca.gov no later than December 6, 2004.
2. Comments on the sale price of the property and the appraisal should be filed at the Commission, and an electronic version sent by e-mail to the service list (and ALJ Peter V. Allen at pva@cpuc.ca.gov) no later than December 10, 2004, as described above.
3. SDG&E shall serve this ruling on the same parties upon which it was directed to serve its application, motion, and the prior ruling.

Dated December 1, 2004, at San Francisco, California.

/s/ PETER V. ALLEN  
by Lynn T. Carew  
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Peter V. Allen  
Administrative Law Judge

**APPENDIX B**  
**ELECTRONIC SERVICE PROTOCOLS**  
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**Party Status in Commission Proceedings**

These electronic service protocols are applicable to all “appearances.” In accordance with Commission practice, by entering an appearance at a prehearing conference or by other appropriate means, an interested party or protestant gains “party” status. A party to a Commission proceeding has certain rights that non-parties (those in “state service” and “information only” service categories) do not have. For example, a party has the right to participate in evidentiary hearings, file comments on a proposed decision, and appeal a final decision. A party also has the ability to consent to waive or reduce a comment period, and to challenge the assignment of an Administrative Law Judge (ALJ). Non-parties do not have these rights, even though they are included on the service list for the proceeding and receive copies of some or all documents.

**Service of Documents by Electronic Mail**

For the purposes of this proceeding, all appearances shall serve documents by electronic mail, and in turn, shall accept service by electronic mail.

Usual Commission practice requires appearances to serve documents not only on all other appearances but also on all non-parties in the state service category of the service list. For the purposes of this proceeding, appearances shall serve the information only category as well since electronic service minimizes the financial burden that broader service might otherwise entail.

**Notice of Availability**

If a document, including attachments, exceeds 75 pages, parties may serve a Notice of Availability in lieu of all or part of the document, in accordance with Rule 2.3(c) of the Commission’s Rules of Practice and Procedure.

**Filing of Documents**

These electronic service protocols govern service of documents only, and do not change the rules regarding the tendering of documents for filing. Documents for filing must be tendered in paper form, as described in Rule 2, *et seq.*, of the Commission’s Rules of Practice and Procedure. Moreover, all filings shall be served in hard copy (as well as e-mail) on the assigned ALJ.

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**Electronic Service Standards**

As an aid to review of documents served electronically, appearances should follow these procedures:

Merge into a single electronic file the entire document to be served (e.g. title page, table of contents, text, attachments, service list).

Attach the document file to an electronic note.

In the subject line of the note, identify the proceeding number; the party sending the document; and the abbreviated title of the document.

Within the body of the note, identify the word processing program used to create the document. (Commission experience indicates that most recipients can open readily documents sent in Microsoft Word or PDF formats)

If the electronic mail is returned to the sender, or the recipient informs the sender of an inability to open the document, the sender shall immediately arrange for alternative service (paper mail shall be the default, unless another means is mutually agreed upon).

**Obtaining Up-to-Date Electronic Mail Addresses**

The current service lists for active proceedings are available on the Commission's web page, [www.cpuc.ca.gov](http://www.cpuc.ca.gov). To obtain an up-to-date service list of e-mail addresses:

- Choose "Proceedings" then "Service Lists."
- Scroll through the "Index of Service Lists" to the number for this proceeding.
- To view and copy the electronic addresses for a service list, download the comma-delimited file, and copy the column containing the electronic addresses.

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The Commission's Process Office periodically updates service lists to correct errors or to make changes at the request of parties and non-parties on the list. Appearances should copy the current service list from the web page (or obtain paper copy from the Process Office) before serving a document.

**Pagination Discrepancies in Documents Served Electronically**

Differences among word-processing software can cause pagination differences between documents served electronically and print outs of the original. (If documents are served electronically in PDF format, these differences do not occur.) For the purposes of reference and/or citation in cross-examination and briefing, all parties should use the pagination found in the original document.

**(END OF APPENDIX B)**

**CERTIFICATE OF SERVICE**

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Requesting Comments on all parties of record in this proceeding or their attorneys of record.

Dated December 1, 2004, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.